



## Office of Children and Family Services

ANDREW M. CUOMO  
Governor

SHEILA J. POOLE  
Commissioner

April 8, 2020

Re: Requesting a waiver to the maximum length of stay for residential programs

Dear Domestic Violence Residential Program Providers:

On March 27, 2020, Governor Andrew M. Cuomo signed [Executive Order 202.11](#), allowing domestic violence (DV) residential programs to continue to serve victims of domestic violence who need to exceed the maximum length of stay for residential programs, during the COVID-19 public health emergency. [Executive Order 202.11](#) states that the Governor has temporarily suspended or modified:

Sections 131-u and 459(b) of the Social Services Law and Sections 408.6, 408.7 and 408.8 Of Title 18 of the NYCRR insofar as the statute and regulations limit the duration and amount of reimbursement for residential programs for victims of domestic violence to the per diem rate established by the Office of Children and Family Services.

Accordingly, OCFS will grant waivers allowing DV programs to serve victims who need a length of stay in excess of the maximum 180 days, provided by law, upon a showing that circumstances prevent victims from moving to safe, alternative housing, and require the length of stay to be exceeded. Due to the danger posed by COVID-19, and the lack of alternative shelter for domestic violence victims, an extended stay may be prudent under certain circumstances.

DV residential programs must request a waiver from OCFS for a length of stay over the maximum 180 days allowed for a DV victim and their dependent family members. A waiver must be requested by each program requiring a stay over 180 days, for any residents. Granted waivers will be effective immediately, and will remain in effect until April 26, 2020, or a date set forth by a subsequent Executive Order.

### **Considerations When Deciding to Request a Waiver:**

- I. What are the circumstances leading to this request?
- II. How will this request affect your ability to continue to provide services?
  - a. Will you still have room for newly assessed DV victims to enter the shelter, if needed?
  - b. Will your intake remain open?
  - c. What are your plans for referrals if your shelter reaches its capacity or needs to close intake, after receiving the waiver?
- III. What is your plan for coming back into compliance once the waiver ends on April 26, 2020?
- IV. How will you plan for safe housing for victims while the waiver is in place?

### **Procedure to Request a Waiver of the Maximum Length of Stay:**

DV residential programs must make a written request for a waiver by emailing their regional office representative. The request must include responses to the above considerations. Requests will be reviewed and decided within two business days of receipt. OCFS Regional Office staff will email both the

DV program and the social services district(s) that contract with the DV program, to advise of any OCFS approved waivers.

The claiming process for per diems remains unchanged. A length of stay over 180 days will have no impact on claiming or reimbursement.

OCFS will share additional guidance and instruction as it becomes available.

Thank you for your support during this ongoing public health emergency.

Sincerely,

Lisa Ghartey Ogundimu  
Deputy Commissioner  
Division of Child Welfare and Community Services